

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

AUG 24 2007

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

DARRELL K. MCHONEY,

Petitioner,

v.

**Civil Action No. 1:05cv105
Criminal Action No. 1:04cr48
(Judge Keeley)**

UNITED STATES OF AMERICA,

Respondent.

ORDER DIRECTING PETITIONER TO FILE VERIFIED AFFIDAVIT

On July 18, 2005, the *pro se* petitioner filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. One of the grounds raised in the petition is ineffective assistance of counsel for failure to file a direct appeal. In response to the petition, the respondent correctly notes that in the petition, the petitioner did not allege that he instructed counsel to file an appeal. In his reply to the respondent's response, however, the petitioner asserts that counsel failed to file a "requested" notice of appeal. Nonetheless, the petitioner fails to support this contention with anything other than this bare-boned allegation.

Accordingly, the petitioner shall **FILE** a verified affidavit, sworn under penalty of perjury, stating that he requested counsel file an appeal on his behalf, the date on which such request was made, and the means through which he made this request to counsel. The petitioner shall file said affidavit within **twenty (20) days** from the date of this Order. The failure to file a verified affidavit within the allotted time could result in a recommendation adverse to the petitioner.

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this order to the *pro se* petitioner and to transmit a copy to counsel of record by electronic means.

DATED: August 24, 2007.


JOHN S. KAUL
UNITED STATES MAGISTRATE JUDGE